

CAMPAIGN SPENDING COMMISSION

STATE OF HAWAII

In Re the Matter of)	CA 01-05
)	
A J CONSTRUCTION and)	
ARESENIO A. AGUSTIN,)	
)	
Respondents.)	
_____)	

CONCILIATION AGREEMENT

On or around October 2001, Robert Y. Watada, Executive Director for the Campaign Spending Commission ("Commission"), initiated an investigation of Respondents A J Construction, a construction firm located at 94-065A Waipahu Depot Street, Apt. A, Waipahu, Hawaii and Arsenio A. Agustin, its president, (collectively referred to as "A J Construction"), pursuant to the express authority of section 11-193, Hawaii Revised Statutes ("HRS"), for a determination of whether the campaign spending law had been violated and a complaint would be submitted to the Commission.

NOW, THEREFORE, A J Construction and the Commission, having entered into conciliation and pursuant to section 11-216(g), HRS, do hereby agree as follows:

- I. That the Commission has jurisdiction over Respondents and the subject matter of this administrative action.
- II. That this Conciliation Agreement ("Agreement") and upon complete performance of the conditions stated herein has the effect of remedial or corrective action taken by Respondents pursuant to section 11-216(g), HRS.

- III. That Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.
- IV. That Respondents waives the right to be heard at a public hearing conducted under chapter 91, HRS, pursuant to section 11-228(b), HRS.
- V. That Respondents enter into this agreement with the Commission on their own volition and with full knowledge and understanding.
- VI. That parties agree to the pertinent facts as follows:
 - 1. On or around October 2001, Robert Y. Watada, in his capacity as Executive Director of the Campaign Spending Commission, and upon information received through the disclosure statements of the Harris 2000 campaign committee, initiated an investigation involving excess contributions in violation of section 11-204(a)(3), HRS.
 - 2. Section 11-204(a)(3), HRS, reads in part as follows: No person, other than a candidate for the candidate's own campaign, or any other entity shall make contributions to:...A candidate seeking nomination or election to a four-year nonstatewide office or to the candidate's committee in an aggregate amount greater than \$4,000 during an election period.
 - 3. The election period for Jeremy Harris and the Harris 2000 campaign committee for Mayor of Honolulu include the period from November 6, 1996 to November 7, 2000.

4. For the Supplemental report filed on January 30, 1997, the Harris 2000 campaign committee reports a contribution of \$500 from A J Construction, made on November 6, 1996.
5. For the Amended Supplement report filed on January 30, 1997, the Harris 2000 campaign committee reports a contribution of \$500 from A J Construction, made on September 20, 1997.
6. For the First Amended Final Primary report filed on October 13, 2000, the Harris 2000 campaign committee reports a nonmonetary contribution of \$4,000.
7. That the contributions aggregate to \$5,000 to the Harris 2000 campaign committee for the election period, an excess contribution of \$1,000.
8. Elma A. Pacleb, Officer Manager, acknowledged and provided documentation on the nonmonetary contribution to the Harris 2000 campaign committee, made on September 20, 2000.
9. The nonmonetary contribution of \$4,000 was the discounted amount for office renovation of the Harris 2000 campaign committee headquarters.
10. The excess contribution in violation of section 11-204(a)(3), HRS, was not knowing, intentional, or reckless pursuant to section 11-229, HRS.
11. Elma Pacleb, stated that she did not believe that a nonmonetary contribution counted towards the contribution limit.

12. A J Construction failed to file a valid Organizational report pursuant to section 11-196.5, HRS, for contributions made to the Harris 2000 campaign committee.
13. A J Construction failed to file preliminary, final and supplemental reports pursuant to sections 11-212 and 11-213, HRS, respectively.

VII. Settlement Terms

As final settlement of the matter and issues in the Conciliation Agreement #01-05, A J Construction understands and agrees to the following:

- (A) A J Construction agrees to an assessment of **Five hundred dollars** (\$500) pursuant to section 11-228, HRS.
 - (1) For violation of section 11-204(a)(3), HRS, making an excess campaign contribution to the Harris 2000 campaign committee;
 - (2) For violation of section 11-196.5, HRS, failure to file an organizational report; and
 - (3) For violation of sections 11-212 and 11-213, HRS, not filing preliminary, final and supplemental reports of campaign contributions and expenditures.
- (B) A J Construction agrees to file required reports and further agrees to comply with campaign finance statutes on contribution and expenditures for noncandidate committees.

(C) Terms of payment of the assessment shall be by Order of the Commission.

- VIII. The Commission upon its own motion or a written request of anyone filing a complaint under section 11-216, HRS, may review compliance with the agreement. If the Commission believes that the Agreement has been violated, it may institute administrative proceedings or a civil action in the Circuit Court of the First Circuit pursuant to section 11-228(c), HRS.
- IX. This Agreement shall become effective as of the date that all parties have signed and the Commission has approved the entire agreement.
- X. This Agreement constitutes the entire agreement between the Commission and A J Construction on the matters raised herein, and no other statement, promise, or agreement, either in writing or oral, not contained in this Agreement made by either party or by agents of either party shall be enforceable.
- XI. This Agreement, unless violated, shall be a complete bar to any further action by the Commission with respect to the violations at issue in this matter.

FOR THE COMMISSION:

Robert Y. Watada, Executive Director

By: _____

Date: _____

FOR THE RESPONDENTS:

Arsenio A. Agustin, President
A J Construction

By: _____

Date: _____

(Name)

(Title)